

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 513 – SB 843

February 12, 2021

SUMMARY OF BILL: Enhances the penalty for certain intentional, knowing or reckless obstruction of a highway offenses. Requires a mandatory \$3,000 fine for all offenses of intentional, knowing or reckless obstruction. Creates a Class E felony offense of throwing an object at another and causing bodily injury while participating in a riot. Creates a Class A misdemeanor offense of throwing an object at another with the intent of harming the other person while participating in a riot. Creates a Class A misdemeanor offense of, while participating in a riot, intentionally intimidating or harassing an individual present at a place accessible to the public and not participating in a riot.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$335,000 Incarceration*

Assumptions:

- Public Chapter 3 of the Second Extraordinary Session of the 111th General Assembly revised the penalties for intentional, knowing, or reckless obstruction of a highway. As such, statistics for convictions under the new penalty structure are not yet available.
- Based on information provided by the Administrative Office of the Courts (AOC), there has been an average of 2.6 Class C misdemeanor convictions for intentional, knowing, or reckless obstruction of a highway each year over the last five years. This analysis assumes that only 10 percent of misdemeanor convictions are at the state court level. As a result, it is estimated that there is a total of 26 intentional, knowing, or reckless obstruction of a highway convictions ($2.6 / 10\% = 26$) per year.
- The proposed legislation will result in the enhancement of such convictions to Class E felony admissions.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.80 percent per year for each of the past 10 years (from 2009 to 2019), yielding a projected compound population growth rate of 8.3 percent. Assuming Tennessee's population continues growing by the same rates over the next 10-year period, population growth will account for 2.16 ($26 \times 8.3\%$) additional admissions for a total of 28 ($26 + 2.16$).
- According to the Department of Correction (DOC), 30.79 percent of offenders will re-offend within one year of their release. A recidivism discount of 30.79 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-

offender would have committed the subsequent offense at the same felony level as under the proposed legislation (28 offenders x 30.79% = 9 offenders).

- According to the DOC, the average operating cost per offender per day for calendar year 2021 is \$80.46.
- The average time served for a Class E felony is 0.60 years.
- Pursuant to Tenn. Code Ann. § 9-4-210, 19 (28 - 9) offenders will be admitted every year serving 219.15 days (0.60 x 365.25). The annualized increase in state incarceration expenditures is estimated to be \$335,023 (\$80.46 x 219.15 x 19).
- Based on the Fiscal Review Committee's 2008 study and the AOC's 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly increase state or local revenue.
- There will not be a sufficient change in number of intentional, knowing or reckless obstruction of a highway prosecutions for local government to experience any significant increase in expenditures.
- This analysis assumes individuals who will be convicted of the offense of throwing an object at another and causing bodily injury while participating in a riot would be convicted of an alternate Class E felony offense under current law. Any impact to incarceration resulting from the creation of this offense is estimated to be not significant.
- This analysis assumes individuals convicted of the Class A misdemeanor offense of throwing an object at another with the intent of harming while participating in a riot and the Class A misdemeanor offense of intentional intimidation or harassment of an individual present at a place accessible to the public and not participating in a riot would be convicted of alternate Class A misdemeanors under current law. Any impact to local incarceration resulting from the creation of these offenses is estimated to be not significant.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Bojan Savic, Interim Executive Director

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